

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL REVISION APPLICATION NO.62 OF 2005

Pushakarbhai Fulabhai Patel & ors.

Applicants

Vs.

Smt.Dixita w/o Sureshbhai Patel
& ors.

Respondents

Mr.Vivek Walawalkar with Ms.Falguni Thakkar i/b.
M/s.Rustamji & Ginwala for applicants.
Mr.P.K.Dhakephalkar i/b M/s.Mahesh Soni & Co. for
respondent

CORAM: B.H.MARLAPALLE,J.
August 10, 2005.

ORAL ORDER:

1. Heard the learned counsel for the petitioners who are impleaded as defendants in S.C. Suit No.6933 of 2000. The defendants after filing the written statement, had filed an application under Section 9A of CPC objecting to the pecuniary jurisdiction of the trial Court to entertain the suit and the said application has been dismissed by the learned Judge of the City Civil Court on 30-6-2001. The said order was initially challenged in A.O. No.685 of 2001 which was disposed off on 21-3-2005 as withdrawn and thereafter this civil revision application has been moved.

2. In the written statement as well as in the

application filed under Section 9A of CPC it was merely stated that the trial court did not have the pecuniary jurisdiction. No further details of the property and the respective valuations were set out. The trial court in para 11 of the impugned order noted that the suit premises were on tenancy basis and the defendants did not give any valuation nor any basis to say that it would oust the jurisdiction of the court in case it was valued at the market price. The trial court, therefore, proceeded to consider the balance sheet and the valuation made on that basis has been accepted. It was for the defendants to provide the necessary details so as to make out a case ousting jurisdiction of the court below and they did not do so. Under these circumstances, no fault could be found with the impugned order.

3. The civil revision application is, therefore, rejected summarily. Ad-interim order stands vacated. Trial of the suit is expedited.

4. Oral application for stay is rejected.

(B.H.MARLAPALLE,J.)

